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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,551	01/28/2002	Martin Loeser	6400-30	3764

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EXAMINER

CHILCOT, RICHARD E

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/058,551	Applicant(s) LOESER, MARTIN	
	Examiner Richard E. Chilcot, Jr.	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-10 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-6 and 8-10 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6 and 8-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The recitation, the checking facility which is "directly" connected to the transmitting agent, is not supported by the specification.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al.

Smith discloses a method for carrying out payment processes in which a cash register (61) transmits a payment demand wirelessly via a first link (col. 7, line 32+, Fig. 3) to a customer's mobile device (2), the customer generates a payment instruction (col. 7, line 36+) and transmits it via a second link to a payment center (30, col. 7, line 17), the payment center checks the payment instruction (col. 7, line 17) and sends payment

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confirmation to the cash register via a third link (col. 7, line 46+), if the result is positive, and the cash register checks the payment confirmation (col. 7, line 47) and releases the goods to the customer upon a positive result. It has been a common practice in the business field and inherent in the process that the parties involved check various demands, confirmations, etc. and continue the transaction only when a positive result is determined. Concerning claim 2, the payment center sends payment debit to a banking center (39) after a positive check of the payment instruction (col. 7, line 38). With respect to claim 3, the cash register stores the confirmations and sends them to a clearing office, which credits the cash register with the total amount (col. 6, line 9 and col. 7, line 1+) Concerning claims 4-6, it would have been obvious for one having ordinary skill in the art at the time of the invention that the payment instruction and confirmation could have been digitally signed at any location, that demands and other communications could have contained addresses and other information and that the various links could have been interactive/interdependent. With respect to claim 8, any suitable networking means, wireless or wired, could have been employed to provide the necessary interfaces which the business prefers. Concerning claims 9 and 10, it would have obvious for the skilled artisan that the cash register and mobile device used in the method for cashless payment would have had all the features and components necessary to perform the method; for example, interfaces for wirelessly transmitting data, agents to send and receive communications, facilities to perform checks and send confirmations. Concerning the limitations that communication links are "directly" connected, these limitation are of no moment. Whenever a communication link is

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established between any two devices, the link is considered coupled. However, if the applicant is proposing there are no parties between the link, then it would have been obvious for the skilled artisan to “directly” link any party to one another for the purposes of efficiency and privacy.

Response to Arguments

With respect to applicant’s argument that page 5, lines 8 and 9, as well as Figure 1 supports the recitation the checking facility is directly connected to the payment center, the examiner is of another opinion. The specification on page 5 only states a data link (32) is placed between the checking facility and the payment facility. A data link is a means for transmitting information between any two devices, which could also include modems that enables transmissions (See Microsoft Computer Dictionary © 1997). It is clear from this definition that the payment center is not “directly” connected to the checking facility. Also, while it is agreed that the Figures of an application are considered part of the specification, the instant Figure is insufficient to overcome the rejection.

Concerning applicant’s argument that Smith (6,487,540) fails to teach or suggest the payment center is directly connected to the checking facility, the examiner is of another opinion. Applicant’s argument is against Smith individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Moreover, applicant quotes Smith incorrectly; specifically, a *verification* of funds transferred would be forwarded back to the authorization processor back to the wireless purchasing device and forwarded to the wireless vending device. It is noted the payment sent to the vending device is confirmation of payment.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard E. Chilcot, Jr. whose telephone number is 703-305-4716. The examiner can normally be reached on 5/4/9 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard E. Chilcot, Jr.
Primary Examiner
Art Unit 3627